

Approved: _____

Russell Capone 12 MAG 01854
JASON A. MASIMORE/RUSSELL CAPONE
Assistant United States Attorneys

Before: HONORABLE JAMES L. COTT
United States Magistrate Judge
Southern District of New York

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UNITED STATES OF AMERICA :

SEALED COMPLAINT

- v. - :

Violations of
18 U.S.C. §§ 1349, 1956

ALEX ORIA,
JOE H. NELSON,
KENNETH NELSON,
CONRADO VAZQUEZ,
EFREN RUIZ,
a/k/a "Socio," and
ABEL GONZALEZ,
a/k/a "Abelito,"

COUNTIES OF OFFENSE:
BRONX, NEW YORK

Defendants. :

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STATE OF NEW YORK) ss:
SOUTHERN DISTRICT OF NEW YORK)

JESSICA CARDENAS, being duly sworn, deposes and says that she is a Special Agent with the Federal Bureau of Investigation, and charges as follows:

COUNT ONE

(Conspiracy to Commit Mail Fraud, Wire Fraud
and Healthcare Fraud)

1. From at least in or about March 2011, up to and including in or about July 2012, in the Southern District of New York and elsewhere, ALEX ORIA, JOE H. NELSON, KENNETH NELSON, CONRADO VAZQUEZ, EFREN RUIZ, a/k/a "Socio," and ABEL GONZALEZ, a/k/a "Abelito," the defendants, and others known and unknown, willfully and knowingly did combine, conspire, confederate and agree together and with each other to commit offenses against

the United States, to wit, to violate Title 18, United States Code, Sections 1341, 1343 and 1347.

2. It was a part and an object of the conspiracy that ALEX ORIA, JOE H. NELSON, KENNETH NELSON, CONRADO VAZQUEZ, EFREN RUIZ, a/k/a "Socio," and ABEL GONZALEZ, a/k/a "Abelito," the defendants, and others known and unknown, willfully and knowingly, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, for the purpose of executing such scheme and artifice and attempting so to do, would and did place in a post office and authorized depository for mail matter, matters and things to be sent and delivered by the Postal Service, and would and did deposit and cause to be deposited matters and things to be sent and delivered by private and commercial interstate carriers, and would and did take and receive therefrom such matters and things, and would and did knowingly cause to be delivered by mail and such carriers according to the directions thereon, and at the places at which they were directed to be delivered by the persons to whom they were addressed, such matters and things, in violation of Title 18, United States Code, Section 1341.

3. It was further a part and an object of the conspiracy that ALEX ORIA, JOE H. NELSON, KENNETH NELSON, CONRADO VAZQUEZ, EFREN RUIZ, a/k/a "Socio," and ABEL GONZALEZ, a/k/a "Abelito," the defendants, and others known and unknown, willfully and knowingly, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, would and did transmit and cause to be transmitted by means of wire and radio communication in interstate and foreign commerce, writings, signs, signals, pictures, and sounds for the purpose of executing such scheme and artifice, in violation of Title 18, United States Code, Section 1343.

4. It was a further part and an object of the conspiracy that ALEX ORIA, JOE H. NELSON, KENNETH NELSON, CONRADO VAZQUEZ, EFREN RUIZ, a/k/a "Socio," and ABEL GONZALEZ, a/k/a "Abelito," the defendants, and others known and unknown, willfully and knowingly would and did execute and attempt to execute a scheme and artifice to defraud a health care benefit program, and to obtain, by means of false and fraudulent pretenses, representations, and promises money owned by and under the custody and control of a health care benefit program in connection with the delivery of and payment for health care

benefits, items, and services, in violation of Title 18, United States Code, Section 1347.

(Title 18, United States Code, Section 1349.)

COUNT TWO

(Conspiracy to Commit Money Laundering)

5. From at least in or about August 2011, up to and including in or about January 2012, in the Southern District of New York and elsewhere, ALEX ORIA, JOE H. NELSON, and KENNETH NELSON, the defendants, and others known and unknown, willfully and knowingly did combine, conspire, confederate and agree together and with each other to violate Title 18, United States Code, Sections 1956(a)(1)(A)(i), 1956(a)(1)(B)(i), and 1957(a).

6. It was a part and an object of the conspiracy that ALEX ORIA, JOE H. NELSON, and KENNETH NELSON, the defendants, and others known and unknown, in an offense involving and affecting interstate and foreign commerce, knowing that the property involved in certain financial transactions represented the proceeds of some form of unlawful activity, willfully and knowingly would and did conduct and attempt to conduct such financial transactions which in fact involved the proceeds of specified unlawful activity, to wit, the proceeds of prescription drug trafficking offenses constituting mail fraud, wire fraud and healthcare fraud, in violation of Title 18, United States Code, Section 1956(a)(1)(A)(i).

7. It was further a part and an object of the conspiracy that ALEX ORIA, JOE H. NELSON, and KENNETH NELSON, the defendants, and others known and unknown, in an offense involving and affecting interstate and foreign commerce, knowing that the property involved in certain financial transactions represented the proceeds of some form of unlawful activity, willfully and knowingly would and did conduct and attempt to conduct such financial transactions which in fact involved the proceeds of specified unlawful activity, to wit, the proceeds of prescription drug trafficking offenses constituting mail fraud, wire fraud and healthcare fraud, knowing that the transactions were designed in whole and in part to conceal and disguise the nature, the location, the source, the ownership and the control of the proceeds of specified unlawful activity, in violation of Title 18, United States Code, Section 1956(a)(1)(B)(i).

8. It was further a part and an object of the conspiracy that ALEX ORIA, JOE H. NELSON, and KENNETH NELSON, the defendants, and others known and unknown, in an offense involving and affecting interstate and foreign commerce, willfully and knowingly would and did engage and attempt to engage in monetary transactions in criminally derived property of a value greater than \$10,000 that was derived from specified unlawful activity, to wit, the proceeds of prescription drug trafficking offenses constituting mail fraud, wire fraud and healthcare fraud, in violation of Title 18, United States Code, Section 1957(a).

(Title 18, United States Code, Section 1956(h).)

The bases for my knowledge of the foregoing charges are, in part, as follows:

9. I am a Special Agent with the Federal Bureau of Investigation, and have been so since 2005. I am presently assigned to Squad C-33, which is within the FBI's Health Care Fraud Task Force ("HCFTF"). As a Special Agent in the HCFTF, I have conducted numerous investigations into federal crimes relating to mail fraud, wire fraud, health care fraud, prescription drug diversion, unlawful drug trafficking and money laundering, among other things. During that time, I have, among other things, conducted or participated in surveillance, the execution of search warrants, debriefings of informants, confidential sources, and cooperating witnesses, reviews of recorded conversations and drug records, and the interception of wire and electronic communications.

10. I have been personally involved in the investigation of this matter. This affidavit is based on my personal observations and participation during the investigation, my conversations with other law enforcement officers and agents, my interviews of witnesses, my execution of search warrants and seizure of evidence, and my examination of evidence, documents, reports and other records. Because this affidavit is submitted for the limited purpose of establishing probable cause, it does not include all facts that I have learned during the course of my investigation. Where the contents of documents and the actions, statements, and conversations of others are reported herein, they are reported in substance and in part, except where otherwise indicated.

11. Through my training, education, experience and participation in the investigation resulting in the filing of

this complaint, I have become familiar with the following scheme involving the unlawful diversion and trafficking of prescription drugs that previously had been dispensed in the New York City area to Medicaid recipients ("second-hand" drugs) in a national, underground market:

a. The prescription drugs involved in this scheme are not drugs of abuse, but rather are drugs designed to treat various illnesses, including, for example, HIV, schizophrenia, and asthma. These second-hand drugs are originally dispensed to Medicaid recipients in the New York City area who then sell the drugs into collection and distribution channels that ultimately end at pharmacies that re-sell the second-hand drugs to unsuspecting consumers. Through the methods described herein, the participants profited by exploiting the difference between the cost to the patient of obtaining bottles of prescription drugs through Medicaid - which typically is zero - and the hundreds of dollars per bottle that pharmacies pay to purchase those drugs to distribute to their customers. To reap maximum profits, the participants target the most expensive drugs, including, but not limited to, the following drugs (with the corresponding approximate Medicaid reimbursement values per bottle): Atripla (\$1,635/bottle); Trizivir (\$1,347/bottle); Zyprexa (\$1,015/bottle); Truvada (\$1,080/bottle); Prezista (\$968/bottle); Reyataz (\$947/bottle); Isentress (\$940/bottle); Intelence (\$770/bottle); Kaletra (\$704/bottle); and Sustiva (\$555/bottle).

b. To effectuate the fraudulent scheme, the lowest level participants in the scheme (the "Medicaid Beneficiaries") fill prescriptions for month-long supplies of drugs at pharmacies throughout the New York City area, using Medicaid benefits to pay the cost. The Medicaid Beneficiaries are typically AIDS patients or individuals who suffer from other illnesses and who sell their medications for cash rather than use them for treatment. Medicaid Beneficiaries sell their bottles of drugs to other participants in the scheme ("Collectors") at locations like street corners and bodegas in and around New York City, including in the Washington Heights neighborhood of Manhattan and in the Bronx. Collectors sell the second-hand bottles they collect to other participants in the scheme ("Aggregators"), who typically buy large quantities of second-hand drugs from multiple Collectors. Aggregators sell the second-hand drugs to other Aggregators higher up the chain, who typically buy large amounts from multiple Aggregators. Eventually, the second-hand drugs make their way to the highest-level Aggregators involved in the scheme, who sell the second-

hand drugs into distribution channels ultimately leading to pharmacies to be dispensed to unsuspecting consumers.

c. These distribution channels involve individuals in Texas, Florida, Nevada, Utah, Alabama, and elsewhere, who control wholesale prescription drug distribution companies ("Corrupt Distribution Companies"), which sell the second-hand drugs to pharmacies and other wholesale prescription distribution drug companies in New York, New Jersey, Massachusetts, Pennsylvania, Illinois, South Carolina, Mississippi, Arizona, Kentucky, Minnesota, Washington, Hawaii, Puerto Rico, and elsewhere. The Corrupt Distribution Companies are designed to conceal the fact that the drugs being sold to the pharmacies are second-hand drugs.

d. Pharmacies originally dispense the drugs to Medicaid Beneficiaries in original, sealed, manufacturers' bottles. Each bottle comes from the manufacturer bearing a label (the "manufacturer's label") that indicates, among other things, the identity of the manufacturer; the brand of drug; the strength of drug; the required storage conditions (such as temperature); the lot number tracking the actual tablets, pills or capsules contained in the bottle back to the place, date and time of their manufacture; and the expiration date of the drugs. Prior to dispensing each bottle, pharmacies affix to the bottle, on top of the manufacturer's label, a separate, adhesive label ("patient label") that includes additional information, such as the name and address of the pharmacy, the name of the patient, information indicating that the drug was obtained through Medicaid, and dosage instructions. After purchasing the second-hand bottles originally dispensed to Medicaid Beneficiaries, Collectors and Aggregators use lighter fluid and other potentially hazardous chemicals to dissolve the adhesive on the patient labels, and remove the patient labels and all traces of the adhesive from the bottles. Through this process, the Collectors and Aggregators make the bottles appear new for the purpose of concealing the fact that they had already been dispensed, so that they eventually can be re-sold to unsuspecting consumers.

e. Because the prescription drugs involved in the scheme are not drugs of abuse, the bottles' high value depends on their appearing to contain new, unexpired drugs that legitimately have been obtained directly from manufacturers through authorized and licensed wholesale distributors.

f. The scheme itself is potentially dangerous to the unwitting consumers of second-hand prescription drugs. As

described above, the bottles have been treated with potentially hazardous chemicals, and the drugs themselves may have expired. Additionally, the participants in the scheme store the drugs in uncontrolled conditions, such as car trunks, residences and rented storage facilities, which may not be sufficient to maintain the medical efficacy of such drugs over time. For example, some HIV medications require constant storage in conditions between 25 and 30 degrees Celsius to maintain their efficacy. Moreover, in some instances, by the time Aggregators obtain the bottles of second-hand drugs, some of the bottles contain drugs or doses different from what is indicated on the manufacturers' labels.

g. This scheme also involves material misrepresentations and omissions both on the front end, when Medicaid Beneficiaries initially obtain prescription drugs, and on the back end, when the second-hand drugs are dispensed to unwitting consumers filling their prescriptions. On the front end of the scheme, the defendants rely on the fact that the Medicaid Beneficiaries fill their prescriptions for little or no cost for the purpose of selling the drugs into the underground market rather than ingesting them to treat their illnesses. Each Medicaid Beneficiary's Medicaid card contains a disclaimer that "fraudulent use of this card is a punishable offense." The Medicaid program, which would not have paid such benefits on behalf of the Medicaid Beneficiaries if the Medicaid Beneficiaries had disclosed that they were selling the drugs to others, unwittingly funds the scheme. On the back end of the scheme, the defendants' purposeful obfuscation of the true source of the second-hand drugs defrauds legitimate consumers who unknowingly have their prescriptions filled with second-hand drugs that have been sold back to pharmacies as part of the scheme. Legitimate consumers would not knowingly fill their prescriptions with second-hand drugs, and legitimate consumers' insurance companies and other health care benefit programs would not knowingly reimburse pharmacies the cost of second-hand drugs. In this manner, the scheme was designed for Medicaid to be defrauded multiple times, as the same drugs that came from Medicaid Beneficiaries in the first place could be dispensed to Medicaid patients on the back end.

h. Moreover, the scheme uses Corrupt Distribution Companies to conceal the true source of the second-hand drugs. Federal regulations require that "[b]efore the completion of any wholesale distribution by a wholesale distributor of a prescription drug . . . to another wholesale distributor or retail pharmacy, the seller shall provide to the purchaser a

statement identifying each prior sale, purchase, or trade of such drug. This identifying statement shall include . . . the business name and address of all parties to each prior transaction involving the drug, starting with the manufacturer; and . . . the date of each previous transaction." 21 C.F.R. § 203.50(a). Accordingly, a necessary component of the fraudulent scheme is creating false records purporting to trace the second-hand drugs back to the manufacturer through the Corrupt Distribution Companies as if those drugs had not been dispensed previously to Medicaid Beneficiaries and purchased on the street in the New York City area.

i. To facilitate the scheme, the defendants use commercial interstate carriers to ship the drugs in boxes from the New York City area to other areas of the country, including Florida and Texas.

The Purchase of Second-Hand Prescription Drugs by CONRADO VAZQUEZ, ABEL GONZALEZ and Others and Resale to ALEX ORIA

12. On or about June 5, 2012, the FBI executed a search warrant at a storage facility in North Bergen, New Jersey, and arrested an individual not identified as a defendant herein ("CS-1"), who rented and operated the facility, for prescription drug diversion related offenses. During the search, agents recovered approximately 10,369 bottles of prescription drugs, worth at least approximately \$3.7 million in Medicaid reimbursement value, many thousands of loose pills that are still being counted, and hundreds of counterfeit prescription drug manufacturers' labels. Exhibit A attached hereto is a photograph taken after the seizure depicting the second-hand prescription drugs that were seized. Exhibit B attached hereto is a photograph taken inside the storage facility during the search depicting the various drawers, boxes, and garbage bags in which CS-1 was keeping second-hand prescription drugs. The prescription drugs recovered appeared to be second-hand drugs; many of the bottles still had patient labels on them, some of which were dispensed by pharmacies in New York, New York. On a table in the storage facility were several second-hand bottles of prescription drugs in the process of having their patient labels removed and containers of hazardous chemicals being used to remove the patient labels. Exhibit C attached hereto is a photograph taken inside the storage facility during the search depicting the table. Exhibit D attached hereto is a photograph taken inside the storage facility during the search depicting a box of second-hand prescription drugs of unknown lot numbers and expiration dates with their manufacturer's and patient labels removed, along with a stack of counterfeit prescription drug

labels that apparently were going to be affixed to the unmarked bottles. Exhibit E attached hereto is a photograph taken inside the storage facility during the search depicting a bag full of hundreds of counterfeit prescription drug labels. Agents also found detailed ledgers and receipts showing the quantities of second-hand drugs being sold by CS-1 and the identities of the customers to whom CS-1 was selling the second-hand drugs, including customers in New York City. On one set of receipts recovered during the search, dated August 5, 2011 (the "August 5 Receipts"), the name "CONRA" is noted at the top. The August 5 Receipts document CS-1's sale for approximately \$109,000 of second-hand drugs to "CONRA," including, but not limited to, 200 bottles of Kaletra.

13. After the arrest of CS-1 and the search of CS-1's storage facility, CS-1 began providing information to law enforcement in the hope of receiving lenient treatment in connection with CS-1's prosecution. Information that CS-1 has provided has been corroborated by other information, including, but not limited to, by documents recovered during the search and public records. I know the following from reviewing reports by agents present during debriefings of CS-1 and speaking to those agents:

a. CS-1 was an aggregator of second-hand drugs, which CS-1 purchased from various individuals and sold to several customers, including someone CS-1 identified as "Conrado."

b. CS-1 identified the August 5 Receipts as receipts documenting CS-1's sale of second-hand prescription drugs to the customer CS-1 knew as "Conrado."

c. CS-1 informed agents that "Conrado" resided in the vicinity of Southwest 123rd Avenue in Miami, Florida.

d. CS-1 identified a photograph of CONRADO VAZQUEZ, the defendant, from the Florida Department of Motor Vehicles as the person CS-1 knows as "Conrad," to whom CS-1 sold second-hand prescription drugs.

14. I know from records from the Florida Department of Motor Vehicles that CONRADO VAZQUEZ, the defendant, resides at a house on Southwest 123rd Avenue in Miami, Florida.

15. Based on my participation in debriefings of an individual not named as a defendant herein ("CS-2"), who was arrested by the FBI, has been charged with various federal

crimes, and is providing information to the Government in the hope of receiving lenient treatment in connection with CS-2's prosecution,¹ I know the following:

a. In or about March 2011, CONRADO VAZQUEZ, the defendant, asked CS-2 to provide VAZQUEZ with money that would be used to purchase prescription drugs. CS-2 identified a photograph of CONRADO VAZQUEZ, the defendant, from the Florida Department of Motor Vehicles as Conrado Vazquez.

b. VAZQUEZ told CS-2 that one of his primary suppliers of prescription medication was "an old man" in the vicinity of Elizabeth, New Jersey. (I know from pedigree information provided by CS-1 after his arrest that CS-1 is a male who is more than 70 years old and lives in Fairview, New Jersey, which, like Elizabeth, is in northern New Jersey.) CS-2 provided VAZQUEZ with approximately \$80,000 to invest in the purchase of prescription drugs.

c. VAZQUEZ told CS-2 that he intended to sell all of the prescription drugs he purchased to ALEX ORIA, the defendant. In 2011, VAZQUEZ and CS-2 traveled to Texas to meet with ORIA and discuss the sale of second hand prescription drugs.

d. VAZQUEZ showed CS-2 three boxes containing prescription drugs that VAZQUEZ said he was shipping to ALEX ORIA, the defendant, in Texas.

e. In order for ORIA to pay VAZQUEZ and CS-2 for the prescription medication, they needed a bank account into which ORIA could cause the money to be wired. In or about March or April 2011, CS-2 and VAZQUEZ met with ABEL GONZALEZ, a/k/a "Abelito," the defendant, who provided the name and account number of a bank account controlled by GONZALEZ for the purpose of ORIA wiring money to pay for prescription drugs (the "GONZALEZ Account"). CS-2 stated that at the meeting with GONZALEZ, it was specifically discussed that the GONZALEZ Account would receive the proceeds of prescription medication sales.

f. In or about 2011, CS-2 picked up approximately \$150,000 in cash from GONZALEZ in Miami, Florida, to give to

¹ CS-2's information has been corroborated by other information, including but not limited to, evidence seized pursuant to a search warrant, intercepted telephone calls, and bank records.

VAZQUEZ, which money CS-2 understood had been wired to the GONZALEZ Account from ORIA.

g. CS-2 recalled that CS-2, GONZALEZ and VAZQUEZ did several deals involving prescription drugs with ORIA, ranging from approximately \$300,000 to \$400,000. In addition, CS-2 learned from ORIA that at some point thereafter, GONZALEZ began selling prescription medication directly to ORIA separate and apart from the business between ORIA and VAZQUEZ.

h. CS-2 observed that one of the shipments of second-hand prescription drugs from VAZQUEZ to ORIA was sent by UPS addressed to a company with the word "Sport" in its name.

The Purchase of Second-Hand Prescription drugs by EFREN RUIZ and Others and Resale to ALEX ORIA

16. Based on my further participation in debriefings of CS-2, I know the following:

a. After CS-2 had worked with CONRADO VAZQUEZ and ABEL GONZALEZ, the defendants, for several months, VAZQUEZ cut CS-2 out of VAZQUEZ's prescription drug trafficking business. Subsequently, CS-2 visited VAZQUEZ at VAZQUEZ's residence in the vicinity of Southwest 123rd Avenue in Miami, Florida. Inside VAZQUEZ's residence, CS-2 observed large boxes containing bottles of prescription drugs. VAZQUEZ asked CS-2, in substance and part, to accompany him to see a co-conspirator not named as a defendant herein ("CC-1"), who VAZQUEZ said was his old partner.

b. VAZQUEZ and CS-2 went to meet CC-1. During the meeting, CC-1 discussed charges that had been brought against CC-1 but were dismissed.² CC-1 discussed expired medications and stated that he paid less for them. CS-2 was aware that CC-1 had known ALEX ORIA, the defendant, for a long time and sold medications to ORIA.

c. Subsequently, CS-2 met CC-1 without VAZQUEZ and proposed that CC-1 and CS-2 work together in the second-hand prescription drug business. CC-1 told CS-2 that he needed a \$100,000 investment to purchase second-hand prescription drugs from an individual not named as a defendant herein ("CC-2").

² I know from public records that CC-1 was arrested by Florida authorities in 2009 for racketeering, and that in or about 2010, the trial court dismissed the indictment, which ruling was overturned by an appeals court on or about March 28, 2012.

d. CS-2 asked EFREN RUIZ, the defendant, to invest in the purchase of second-hand prescription drugs from CC-2. RUIZ agreed, and CS-2 and RUIZ invested approximately \$129,000, together, in the purchase of prescription drugs from CC-2.

e. Shortly thereafter, CS-2, CC-1, CC-1's son and others went to New Jersey to meet CC-2. They met CC-2 in the parking lot of a liquor store. After that, they drove to a hotel in New Jersey, where CC-2 delivered the drugs. CS-2 saw CC-2 bring boxes of prescription drugs to a hotel room, where CC-1's son inspected the bottles' seals and expiration dates. CS-2 observed CC-1 call ORIA to discuss the prices and send a fax to ORIA in Texas detailing the transaction. CC-1 then paid CC-2, and CC-1's son arranged to ship the boxes to ORIA in Texas.

f. ORIA paid CS-2 for this transaction by wiring money into a bank account controlled by RUIZ (the "RUIZ Account"). In addition, CS-2 received approximately \$300,000 in cash from an individual in the Bronx.

g. CS-2 and CC-1 conducted additional prescription drug transactions with CC-2 in hotel rooms in New Jersey.

h. From speaking to CC-2, CS-2 learned that CC-2 obtained second-hand prescription drugs from CC-2's brother and others, and that the second-hand drugs were obtained from patients who sold their medications at bodegas in New York City. CC-2 told CS-2 that he had people who "cleaned" the bottles.

i. After using the RUIZ Account for the initial wire transfer from ORIA, CS-2 and RUIZ began using a bank account controlled by another co-conspirator not named as a defendant herein ("CC-3") to obtain cash from ORIA. CC-3 had a business account (the "CC-3 Account"), which CC-3 made available to CS-2 for a commission. CS-2 passed the CC-3 Account information to CC-1, who passed it to ORIA. ORIA then paid CS-2 and the others via wire transfers to the CC-3 Account.

j. Subsequently, ORIA informed CS-2 that CC-1 had made money and would be cutting CS-2 out. ORIA proposed that CS-2 provide prescription drugs directly to ORIA for 60% of the wholesale price, but imposed a condition that CS-2 split the profits he made from ORIA 50/50 with ORIA. CS-2 and RUIZ then began buying prescription drugs from CC-2 without CC-1 to sell to ORIA.

k. CS-2 and RUIZ purchased prescription drugs from CC-2 on several occasions at the house of a co-conspirator not named as a defendant herein ("CC-4") On one occasion, CC-2 dropped off the boxes, collected money from CS-2, RUIZ and CC-4, and left to purchase more prescription drugs. CC-2 then returned with more prescription drugs.

1. CS-2 said that CS-2 purchased the second-hand prescription drugs from CC-2 at approximately 25% of the legitimate wholesale price. When CS-2 and others picked up prescription drugs from CC-2, CS-2 would fax inventories of those drugs to ORIA in Texas. ORIA would then tell CS-2 the price ORIA would pay for those drugs. ORIA would typically pay between 60 and 65 % of the wholesale price for each drug, and told CS-2 that the drugs went to distribution companies he had in Utah, Ohio, North Carolina, and California.

m. CS-2 traveled on several occasions to Texas to meet with ORIA to discuss the second-hand prescription drug trafficking business. In addition, CS-2 is aware that CC-4 traveled to Texas on multiple occasions to pay ORIA, in cash, the 50 percent of profits that CS-2 had promised ORIA. According to CS-2, on these occasions, CC-4 would reserve a room at an airport hotel in Houston and would leave the money in the room for ORIA to pick up. CS-2 said that the last time that CC-4 traveled to Houston to drop off money for ORIA was in February 2012.

17. Based on my review of a report prepared by a DEA Agent ("Agent-1"), I know that on or about February 2, 2012, Agent-1 interviewed CC-4. In substance and part, CC-4 told Agent-1 that he was in Texas but would be returning on a flight from Houston to Newark the following morning. I also know that on or about February 2, 2012, DEA agents surveilled CC-2 as he left CC-4's house with a bag; those agents ultimately stopped CC-2 and seized approximately \$55,000 in cash from him.

18. In or about 2011, the FBI monitored telephones used by CC-2 and CC-2's brother pursuant to Court orders. I know from reviewing summaries of intercepted communications over those telephones and surveillance conducted in conjunction with those intercepts that CC-2 and CC-2's brother are part of an organization that purchases second-hand prescription drugs originally dispensed to Medicaid patients in New York, New York, and the Bronx. CC-2 and CC-2's brother and their organization clean the patient labels off of the bottles of second-hand prescription drugs and sell them to others, including to CC-1 and CS-2. Wire intercepts over CC-2's phone also corroborate

the purchase of second-hand prescription drugs by CS-2 and CC-1 from CC-2. For example, I know from such wire intercepts the following, in part:

a. On or about November 29, 2011, at approximately 1:22 p.m., CC-2 placed a call to CS-2. During the conversation, CC-2 told CS-2 that CC-2 was "waiting for [CC-1]," and told CS-2 to do "what we've always done - El Gordito, the house, like always." CS-2 asked how much, and CC-2 replied, "[unintelligible] right now." CS-2 responded, "and tomorrow, 300." CC-2 asked whether the guy had it there then, and CS-2 replied in the affirmative. CC-2 said that he did not want to "hear that he has 20 dollars." CC-2 told CS-2 to ask "what kind of boxes" they should bring and whether they "have to bring boxes and tape." Based on my training, experience and participation in this investigation, I believe that during this call, CC-2 and CS-2 were discussing a meeting at which CC-2 was going to sell CS-2 second-hand prescription drugs.

b. On or about November 29, 2011, at approximately 3:12 p.m., CS-2 placed a call to CC-2. During the call, CC-2 asked when he could go over there, and CS-2 said "now." CC-2 said "with that amount," they will "be there until midnight." CC-2 asked whether CS-2 found out if "there are boxes and stuff to glue/tape with" and CS-2 replied that they "need the peanuts." Based on my training, experience and participation in this investigation, I believe that during this call, CC-2 and CS-2 were discussing a meeting at which CC-2 would sell CS-2 second-hand prescription drugs, including the packing of the second-hand prescription drugs into boxes.

c. On or about November 29, 2011, at approximately 3:12 p.m., CC-2 placed a call to CS-2. During the call, CC-2 asked CS-2 if he "needs Kaleta" or "Zyprex." CS-2 told CC-2 not to take it then "because there's a lot of that." Based on my training, experience and participation in this investigation, I believe that during this call, CC-2 was asking CS-2 whether CS-2 wanted to purchase HIV medication Kaletra and antipsychotic medication Zyprexa during their meeting.

The Prescription Drugs Purchased By ALEX ORIA Are Delivered To
and Paid For by Bank Accounts Controlled by JOE H. NELSON and
KENNETH NELSON

19. Based on my further debriefings of CS-2, I know the following:

a. ORIA told CS-2 that ORIA has a partner named "Nelson," who has a pharmaceutical distribution company. CS-2 remembers that "Nelson's" name began with the letter "J." ORIA also told CS-2 that "Nelson's" son received the shipments of second-hand prescription drugs from CS-2 and that "Nelson" and his son transported the drugs to a different location for ORIA. At various times, while CS-2 was on the telephone with ORIA, ORIA said that he was at the bank with "Nelson," and that "Nelson" could wire amounts over \$90,000 from his account.

b. CS-2 said that once the second-hand prescription drugs were purchased from CC-2, they were then shipped via UPS or other common carriers to "Nelson's" son in Sugar Land, Texas.

c. ORIA paid CS-2 by causing money to be wired from an account for a corporation controlled by "Nelson" and his son to the CC-3 Account.

d. In or about late 2011 or early 2012, ORIA told CS-2 that second-hand prescription drugs shipped by CC-1 by UPS were taken during shipment and replaced with peanuts. ORIA said he found the theft humorous and that he had split the cost of the loss with CC-1. ORIA said that the man who had received the shipment of peanuts had told ORIA that he suspected he was being followed. After that, ORIA no longer wanted to receive the second-hand prescription drugs by commercial interstate carrier, and CC-4 began to drive them from the New Jersey area to Louisiana.

20. As noted above in paragraph 18, I have reviewed summaries of intercepted communications over a phone used by CC-2. Among those communications was a call on December 4, 2011, during which CS-2 and CC-2 discussed the recent purchase of prescription drugs by CC-1 from CC-2 that CC-1 had intended to send to ORIA.

21. On or about December 5, 2011, other law enforcement agents surveilled a meeting at a motel in North Bergen, New Jersey between CC-1 and CC-2. Based on my discussion with those agents, I know that during the surveillance, they witnessed CC-1, CC-2 and others packing several large boxes into a vehicle.

CC-1 then drove the boxes (the "Boxes") to a UPS store in North Bergen, New Jersey (the "UPS Store") and entered the UPS Store with the Boxes.

22. Pursuant to a search warrant, other law enforcement agents and I seized and searched the Boxes. The Boxes were addressed to "K. Nelson," the defendant, at an address in Sugar Land, Texas ("Sugar Land Address-1"). Inside the Boxes, we discovered approximately 301 bottles of HIV medication Kaletra, worth more than approximately \$212,000 in Medicaid reimbursement value. Attached hereto as Exhibit F is a photograph of the contents of one of the Boxes taken when we opened them. We seized the prescription drugs from the Boxes, and replaced them with containers of candy, sugar, rice, and foam packing peanuts, and the Boxes were delivered as scheduled to Sugar Land Address-1. Attached hereto as Exhibit G is a photograph of one of the Boxes showing some of the items the FBI placed into the Boxes after removing the Kaletra.

23. On December 5, 2011, other law enforcement agents conducted surveillance at Sugar Land Address-1 and observed UPS deliver the boxes to the front porch of Sugar Land Address-1, which is a residential house in a development. They then observed a woman enter the house through the garage. Several hours later, KENNETH NELSON, the defendant, arrived in the driveway of Sugar Land Address-1 but did not enter. At this time, the Boxes could no longer be seen on the front porch. The woman then exited the house, and she and NELSON left in separate vehicles.

24. Based on my review of documents provided by Bank of America, I know that from approximately August 2011 through January 2012, the CC-3 Account received approximately \$4.4 million from a bank account for a company known as KPP Consulting, Inc. (the "KPP Account").

25. Based on my review of documents provided by Regions Bank for the KPP Account, I know that the JOE H. NELSON and KENNETH NELSON, the defendants, are the signatories on the KPP Account, and JOE H. NELSON is the president of KPP.

26. Based on my review of documents from the Texas Department of State, I know that KPP Consulting, Inc. is listed as having a business address in Sugar Land, Texas ("Sugar Land Address-2").

27. I know from Texas DMV records that JOE H. NELSON, the defendant, resides at Sugar Land Address-2. I know from

surveillance performed by agents that Sugar Land Address-2 is a residential house in a tree-lined development.

28. I know from Texas DMV records that KENNETH NELSON, the defendant, resides at Sugar Land Address-1.

29. I know from bank records for the KPP Account and bank records for a personal bank account for KENNETH NELSON, the defendant, that the KPP Account funded the purchase of KENNETH NELSON's house at Sugar Land Address-1.

ORIA's Distribution of Second-Hand Prescription Drugs Into
Channels of Distribution Leading to Unsuspecting Consumers

30. As noted above, the KPP Account paid approximately \$4.4 million into the CC-3 Account. Also as noted above, according to CC-2, an account controlled by "Nelson" and his son paid the CC-3 Account for diverted prescription drugs.

31. Based on documents from Regions Bank, I know the following:

a. Approximately 91 percent of money flowing into to the KPP Account came from a bank account for a certain wholesale prescription drug distribution company (the "Wholesale Distributor" and the "Wholesale Distributor Account").

b. From in or about August 2011 through in or about February 2012, the Wholesale Distributor Account deposited approximately \$9.25 million into the KPP Account.

c. From in or about August 2011 through in or about February 2012, the Wholesale Distributor Account deposited approximately \$833,000 into an account for GSC Consulting Inc., whose president I know from the Texas Department of State is JOE H. NELSON, the defendant.

d. From in or about August 2011 through in or about February 2012, the KPP Account deposited more than approximately \$700,000 in an account for Gold Medal Consulting Inc. (the "Gold Medal Account"). I know from records from Wells Fargo bank that ORIA is the sole signatory on the Gold Medal Account.

32. Based on documents from US Bank, I know the following:

a. The Wholesale Distributor is located in Saint George, Utah and is licensed to distribute prescription drugs in

Utah and other States. As noted above, ORIA told CS-2 that ORIA had a distributor in Utah.

b. From in or about July 2010 through in or about March 2011, the Wholesale Distributor Account wired approximately \$170,000 to an account for "Healthcare Marketing Consultants Inc." (the "Healthcare Marketing Account") I know from the Nevada Department of State that ALEX ORIA, the defendant, is the president, secretary and treasurer of Healthcare Marketing Consultants Inc., and I know from records provided by Wells Fargo that ORIA is the sole authorized signatory for the Healthcare Marketing Account.

c. From in or about April 2011 to in or about January 2012, the Wholesale Distributor Account received several million dollars from pharmacies, including approximately \$7.9 million from a New York-based national healthcare company that provides specialty pharmacy and disease management services focused on HIV/AIDS patients ("Pharmacy-1").

33. Based on documents provided by Pharmacy-1, I know the following:

a. Pharmacy-1 purchased prescription drugs from the Wholesale Distributor. Such transactions were coordinated by email with a co-conspirator not named as a defendant herein ("CC-5"), who was an employee of Pharmacy-1.

b. CC-5 also purchased second-hand prescription drugs on behalf of Pharmacy-1 from another wholesale prescription drug distribution company that had the word "Sports" in its name (the "Sports Distributor"). As noted above in paragraph 15(f), CS-2 recalls that one of the shipments of second-hand prescription drugs from VAZQUEZ to ORIA was sent by UPS addressed to a company with the word "Sport" in its name.


c. On or about August 18, 2008, CC-5 sent an email to the Sports Distributor, subject line "Defective Trizivir," an HIV medication, which stated, "Hello, [Pharmacy-1] received a bottle of Trizivir that has another pharmacy's label on it!! Someone is NOT CHECKING!! Please credit on next order. Thanks."

34. Based on my review of information provided by the New York State Board of Pharmacy, the Florida Department of Health, the New Jersey Division of Consumer Affairs, the Texas State Board of Pharmacy, I know that none of ALEX ORIA, JOE H. NELSON, KENNETH NELSON, CONRADO VAZQUEZ, EFREIN RUIZ a/k/a "Socio," ABEL

GONZALEZ a/k/a "Abelito" and KPP Consulting Services Inc. is a licensed dealer or distributor of prescription drugs in any of those states.


35. Based on my training and experience, I know that legitimate wholesale distributors of prescription drugs do not conduct business by accepting boxes of drugs from interstate commercial carriers at residential addresses, accepting cash in hotel rooms, and selling drugs at only 60% to 65% of their typical wholesale price. Moreover, I am aware that federal regulations require that all transfers between legitimate prescription drug wholesalers be accompanied by written documentation tracing each bottle of prescription drugs through every transaction back to the manufacturer. Specifically, Title 21, Code of Federal Regulations, Section 203.50(a) requires, in part, that "[b]efore the completion of any wholesale distribution by a wholesale distributor of a prescription drug . . . to another wholesale distributor or retail pharmacy, the seller shall provide to the purchaser a statement identifying each prior sale, purchase, or trade of such drug. This identifying statement shall include . . . the business name and address of all parties to each prior transaction involving the drug, starting with the manufacturer; and . . . the date of each previous transaction."

WHEREFORE, deponent asks that a warrant be issued for the arrest of ALEX ORIA, JOE H. NELSON, KENNETH NELSON, CONRADO VAZQUEZ, EFREN RUIZ and ABEL GONZALEZ a/k/a "Abelito," and that they be imprisoned, or bailed, as the case may be.



Jessica Cardenas
Special Agent
Federal Bureau of Investigation

Sworn to before me this
11th day of July, 2012.



THE HONORABLE JAMES L. COTT
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF NEW YORK

EXHIBIT A



EXHIBIT B



EXHIBIT C



EXHIBIT D



EXHIBIT E



EXHIBIT F



EXHIBIT G

